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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,346	06/25/2003	Andrew Egendorf	7178-222	2602
7590 09/06/2005				
Clifford Chance US LLP 200 Park Avenue New York, NY 10166-0153			EXAMINER FELTEN, DANIEL S	
			ART UNIT 3624	PAPER NUMBER

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,346

Applicant(s)

EGENDORF, ANDREW

Examiner

Daniel S. Felten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-110 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-110 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/2/2005.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152).
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Receipt of the Preliminary Amendment filed February 02, 2005 canceling claims 1-30 and adding claims 31-110 is acknowledged. Claims 31-110 are pending in the application and are presented to be examined upon their merits.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on February 02, 2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 31-110 rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit (US 4,799, 156) in view of Rosen (US 5,557,518) and Chen et al (US 5, 590,197)

Re claims 31, 40, 41, 50, 51, 60, 61, 70, 71, 80, 81, 90, 91, 100, 101, 110:

A method of billing for *network* purchase transactions comprising for each purchase transaction the steps by a vendor of products or services of:

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- a) establishing a remitting agreement with a third party to allow the third party to bill a transaction amount to a billing account of a customer for a purchase transaction of a product or service purchased over the network by the customer from the vendor, wherein the third party remits at least a portion of the transaction amount to the vendor with respect to the purchase transaction; (see Shavit, “umbrella agreement”, col. 12, ll. 54 to col. 13, ll. 9; and col. 13, lines 35-50)
- b) receiving a request over the network to deliver the product or service to the customer which request is received after the customer has authorized the third party to bill the transaction amount to a billing account of the customer (see col. 6, ll. 27-57);
- c) delivering the product or service to the customer, wherein the vendor has not previously received from the customer, for purposes of paying for the product or service, either a credit card number of the customer or a bank account number of the customer,(see col. 6, ll. 19-51); and
- d) receiving at least a portion of the transaction amount from the third party in accordance with the remitting agreement, wherein the vendor has not previously received from the customer, for purposes of paying for the product or service, either a credit card number of the customer or a bank account number of the customer, and wherein the vendor has not previously received from the third party, for purposes of paying for the product or service, either a credit card number of the customer or a bank account number of the customer. (see Shavit, col. 5, lines 39-65)

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--wherein the third party is a cable television company, a company offering financial services, an network access provider, or a telephone company, (see Shavit, col. 5, ll. 39-65), *as in claim 32, 42, 52, 62, 72, 82, 92 and 102,*

--wherein the step of receiving at least a portion of the transaction amount comprises receiving a check or a credit to an account with a bank, a cable television company, a company offering financial services, a credit card company, an network access provider, a telephone company, or the third party, (see Shavit, col. 8, ll. 51-65), *as in claim 33, 43, 53, 63, 73, 83, 93 and 103*

--wherein the step of receiving at least a portion of the transaction amount is performed before the step of delivering, (see Shavit, column, 8, lines 23-37), *as in claim 36, 46, 56, 66, 76, 86, 96 and 106*

--wherein the step of receiving at least a portion of the transaction amount is performed before the step of delivering , (see col. 8, lines 23-54), *as in claim 37, 47, 57, 67, 77, 87, 97 and 107*

--wherein the step of receiving at least a portion of the transaction amount is performed before the step of delivering, , (see col. 8, lines 23-54), *as in claims 38, 48, 58, 68, 78, 88, 98 and 108,*

--wherein the step of receiving at least a portion of the transaction amount is performed before the step of delivering, (see col. 8, lines 23-54) *as in claims 39, 49, 59, 69, 79, 89, 99 and 109,*

Shavits fails to disclose, as in claims 34, 35, 44, 45, 54, 55, 64, 65, 74, 75, 84, 85, 94, 95, 104 and 105, wherein the portion of the transaction amount received from the third party is less than the transaction amount. However, it would have been obvious for an artisan of ordinary skill in the art at the time of the invention to recognize that what Shavit calls a "subscriber" would be charged some kind of fee by the system to use the system and make transactions. It would be understood that the amount charged to the system to the subscriber. Thus such a modification would have been an obvious expedient well within the ordinary skill of the art.

--wherein the portion of the transaction amount received from the third party is less than the transaction amount, , (see col. 8, lines 23-54), *as in claims*

Shavit discloses fails to disclose, as in claims 31, 40, 41, 50, 51, 60, 61, 70, 71, 80, 81, 90, 91, 100, 101, 110, wherein the vendor has not previously received from the third party, either a credit card number of the customer or a bank account number of the customer. Rosen teaches a system with computer peripheral devices wherein the vendor has not previously received from the third party, either a credit card number of the customer or a bank account number of the customer enabling the secure delivery of electronic merchandise via a real-time anonymous payment transaction (see Rosen, col. 3, lines 3-66 to col. 4, line 37). It would have been obvious for an artisan of ordinary skill in the art to have recognized and have been familiar with the notoriously old and well known security issues that face remote electronic transactions over various open networks (e.g., transmission of electronic money or personal account information

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over the Internet). Thus one of ordinary skill in the art would have sought to employ the methods disclosed in Rosen to provide a greater level of security and protection of information for the buyer. Thus such a modification would be considered an obvious expedient within the ordinary skill of the art.

Shavit fails to state that the network is the Internet. Chen teaches the use of computer peripheral devices over the Internet as part of a network that is now being widely used in e-commerce (see Chen col. 3, ll. 11 to col. 4, ll. 31). Since Shavit uses a network to make electronic transactions between customers and vendors, it would have been obvious to provide the latest in network technology to allow the customer to participate in a globally used network. Thus such a modification would provide the user with a greater number of choices by which to conduct transactions. Thus such a modification would have been an obvious expedient to one of ordinary skill in the art.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DSF
August 30, 2005

Daniel S Felten
Examiner
Art Unit 3624



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